

V. CURRENT 2 GHZ USERS SHOULD BE RELOCATED
ONLY UPON REACHING AGREEMENT WITH THE NEW
LICENSEES IN THIS BAND

A. No Current Licensee Should Be Forcibly Relocated

There is substantial agreement that forced relocation could be highly disruptive to existing common carrier services as well as business and government operations.⁴⁸ A mandatory displacement poses substantial risks to the well-being of vitally important services.⁴⁹

For example, common carriers employing 2 GHz frequencies have indicated that their customers would face interruption or degraded performance of communications links on which they rely.⁵⁰ On the private side, a number of utilities identified the real possibility of problems in, for example, identifying breaks in a gas pipeline.⁵¹ The ability of

⁴⁸ E.g., Centel Corporation at 3-6; American Personal Communications at 16-18; Southwestern Bell Corporation at 16-17.

⁴⁹ E.g., American Gas Association at 4; American Public Power Association at 11-13; Tarrant County Water Control and Improvement District Number One at 3; Cooperative Power Association at 2; Edison Electric Institute at 5-11; El Paso Natural Gas Company at 2-3; National Rural Electric Cooperative Association at 1-4, 6-7; Metropolitan Water District of Southern California at 5-7, 9-10, 25.

⁵⁰ E.g., Huffman Communications, Cal Autofone and Radio Electronics Products Corp. at 2-3; NYNEX Mobile Communications Company at 4; OCOM Corporation at 3-9.

⁵¹ E.g., Texas Gas Transmission Corporation at 4; Questar Corporation at 4-8.

emergency services to continue to respond to automobile accidents and other crisis developments could be impaired.⁵²

The commenting parties therefore urge the Commission to grant current 2 GHz licensees primary status on an indefinite basis.⁵³ The record plainly does not support forced relocation at this time. The new services have not yet been defined, the cost-benefit analysis has not been performed, nor has any thought been given to whether new services can share spectrum in the 2 GHz band, even temporarily. These factors weigh heavily in favor of retention of primary status by current 2 GHz operators. As a corollary, full frequency protection must be accorded to existing 2 GHz users. Thus,

⁵² Southeast Ohio Emergency Medical Services, Inc. at 1. Some commenters have pointed out that, like government licensees, private microwave operators may also carry essential public safety-related communications that should be exempt from relocation. E.g., American Gas Association at 7; American Petroleum Institute at 27; Association of American Railroads at 27-31; Atlantic City Electric Company at 11-12; Central and South West Corporation at 2; Edison Electric Institute at 16-17; Texas Gas Transmission Corporation at 4.

⁵³ E.g., Alascom, Inc., Telephone Utilities of Eastern Oregon, Inc., and Telephone Utilities of Washington, Inc. at 1-2; Century Telephone Enterprises, Inc. at 11-12; OCOM Corporation at 2, 16-17, 22; Organization of the Protection and Advancement of Small Telephone Companies at 4, 9-10; Public Service Telephone Company at 11-12; Southwestern Bell Corporation at 18-21; Telephone and Data Systems, Inc. at 4; Alabama Electric Cooperative, Inc. at 2; American Petroleum Institute at 27-31; American Public Power Association at 19-20; Arizona Public Service Company at 2-3; Basin Electric Power Cooperative at 3; Central and South West Corporation at 4; Central Maine Power Company at 3; Central Power and Light Company at 3; Corn Belt Power Cooperative at 2; Interstate Natural Gas Association of America at 10-11; Montana Power Company at 6; COMSEARCH at 11.

new entrants should bear the burden of ensuring interference-free operation for any predecessor operations.⁵⁴ One of the PCS proponents has been an advocate of this position, stating that, "[w]ithout question, the FCC [should] not authorize any new service in the new 2 GHz band without establishing strict rules to protect existing users from harmful interference."⁵⁵

B. The Beneficiaries of Relocation Should
Shoulder the Burden of Relocation

There is strong agreement by many commenters that the policies adopted by the Commission should ensure that the providers of future 2 GHz services will bear the full costs of reassignment for existing fixed microwave users of the band.⁵⁶ McCaw is not alone in believing that the interests

⁵⁴ E.g., Alascom, Inc., Telephone Utilities of Eastern Oregon, Inc., and Telephone Utilities of Washington, Inc. at 2-3; Interstate Natural Gas Association of America at 11; The Coastal Corporation at 16.

Any other scheme would deprive current 2 GHz users of meaningful use of the spectrum, effectively forcing their relocation.

⁵⁵ See Written Testimony of Wayne N. Schelle, Chairman of American Personal Communications and Chairman of the Telocator PCS Section, before the Subcommittee on Communications of the U.S. Senate Committee on Commerce, Science, and Transportation (June 3, 1992).

⁵⁶ E.g., National Telephone Cooperative Association at 5; OCOM Corporation at 17-20; Pacific Telesis Group at 7; Southwestern Bell Corporation at 21-23; Telephone and Data Systems, Inc. at 7-8; United States Telephone Association at 4-5; United Telephone Companies at 8-9; American Gas Association at 9-10; American Public Power Association at 16-17; Arizona Public Service Company at 2; Association of
(continued...)

of fairness and equity demand such a result. Almost all of the commenters agree that new 2 GHz service providers should pay relocation costs for existing licensees.

This goal can be readily implemented by relying on marketplace forces in the case of licensed operators employing specific frequencies. An alternative procedure may be needed to ensure that providers of unlicensed Part 16 services share their appropriate burden. The North American Telecommunications Association ("NATA"), for example, has suggested that the Commission consider the establishment of an umbrella organization or some other mechanism that could effectively fund and carry out any necessary relocation negotiation on behalf of future providers and/or users of unlicensed devices or services.⁵⁷ By adopting some means for achieving this goal, existing users can be relocated and the existing spectrum freed for use by such operations.

VI. CONCLUSION

Interested parties currently lack sufficient information about the status of future and current uses of 2 GHz frequencies to evaluate the Notice's proposals. The plethora of proposed spectrum sharing techniques suggests that the

⁵⁶(...continued)
American Railroads at 42-46; Centerior Energy Corporation at 5; Pacificorp at 2; ROLM Systems at 6.

⁵⁷ North American Telecommunications Association at 7.
See also Apple Computer, Inc. at 4-5.

Commission first should foster such opportunities. This is particularly true in light of the perception of many parties that the Commission thus far has underestimated the true costs and disruptions of the proposed dislocation. No current users should be forcibly moved; relocation should occur only upon reaching a voluntary agreement for new services providers to fund the replacement facilities.

Respectfully submitted,

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July 8, 1992

POTENTIAL FREQUENCY ALLOCATIONS FOR PART 16 PCS OPERATION

In the Commission's February 7, 1992, Notice of Proposed Rulemaking, it proposed to relocate the current users of the 1850-1990 MHz, 2110-2150 MHz, and 2160-2200 MHz bands to accommodate new allocations for "emerging technologies." One of the emerging technologies under consideration for part of this vacated spectrum would be in-building and campus wireless PBX systems and enhanced residential cordless telephone services operating on a unlicensed "Part 16" basis. McCaw has undertaken a study to determine whether there are sub-bands within the identified emerging technologies bands that would be more or less suitable for immediate reallocation to Part 16 services. McCaw's findings are summarized below.

The 1850-1990 MHz band is currently allocated to the Private Operational Fixed Microwave Service governed by Part 94 of the Commission's Rules. The Part 94 rules provide for 5 and 10 MHz one and two way channels arranged as follows:

- Six 10 MHz paired transmit/receive channels, with 80 MHz channel separation, are centered at 1855/1935, 1865/1945, 1875/1955, 1885/1965, 1895/1975, and 1905/1985 MHz.
- Five 5 MHz paired transmit/receive channels, with 80 MHz channel separation, are allocated interstitially, and centered at 1860/1940, 1870/1950, 1880/1960, 1890/1970, and 1900/1980 MHz.
- Two 10 MHz one-way channels are centered at 1915 and 1925 MHz; *i.e.*, between the transmit channels allocated at 1850-1910 MHz and the paired receive channels allocated at 1930-1990 MHz.

Discussions with the OET staff have indicated:

- There are 9258 licensed facilities in the 1850-1990 MHz band overall.
- Usage within each listed subcategory is relatively evenly distributed throughout the respective bands.

- Approximately 85% of the users of the 1850-1990 MHz band nationwide (about 7900 facilities) utilize 10 MHz paired channels.
- Approximately 10% of the users of the 1850-1990 MHz band nationwide (about 1000 facilities) utilize 5 MHz paired channels.
- Only 5% of the users of the 1850-1990 MHz band nationwide (about 500 facilities) are unpaired 10 MHz channels in the 1910-1930 MHz band.

If, as some have maintained, a Part 16 allocation will require a 40 MHz band with 10 MHz of "clear" spectrum nationwide, a Part 16 allocation centered around this 20 MHz band may warrant further consideration. As an initial matter, the relatively lower number of licenses in the unpaired band (25 facilities/MHz) compared with the remainder of the band (74 facilities/MHz), makes the center 20 MHz of the 1850-1990 MHz band very attractive for services that will be launched immediately, such as a Part 16 PCS service. It may be possible, for example, to retune many users operating on the 1915 MHz channel to operate on the 1925 MHz channel, or vice-versa, thus freeing the necessary 10 MHz rapidly and with minimal relocation costs.